

Washington County Land Use Authority Meeting October 09, 2012

The Washington County Land Use Authority Meeting was held Tuesday, October 09, 2012 in the Council Chambers of the Washington County Administration Building located at 197 E. Tabernacle, St. George, UT. The meeting was convened at 1:30 p.m. by Chairman Doug Wilson.

Commissioners present: Deborah Christopher, Dave Everett, Mike Stucki, and Kim Ford.

Excused: JoAnn Balen, Rick Jones, and Julie Cropper (alternate).

Staff present: Deon Goheen, Planning & Zoning Administrator; Eric Clarke, Deputy County Attorney; Doreen Bowers-Irons, Planning Secretary; Todd Edwards, County Engineer; Kim Hafen, County Clerk; Dean Cox, County Administrator, Alan Gardner, County Commission.

Chairman Wilson welcomed and thanked everyone for attending. He asked that cell phones be turned off. He led the Pledge of Allegiance after which, he explained meeting protocol.

I. STAFF COMMENTS. Review staff comments for each item listed below; Staff initiated.

II. CONDITIONAL USE PERMIT EXTENSION REVIEW. Review extension for the installation of the 345kV Transmission project approving three alternative routes through Washington County to Red Butte No. 2; Rocky Mountain Power, applicant.

The planner reported this is an automatic annual review. The commission may recall this application submitted on behalf of Rocky Mountain Power. Public utilities and transmission lines are conditionally approved within the OSC-20 and OST-20 (*County Code 10-6A&B-3*), A-20, and MH Zones in Washington County. Previously, Rocky Mountain Power obtained a CUP for a Project Area, which contains both proposed routes described in the application as Alternative S4 and S7 and another route combining the portions of the two routes. NEPA will most likely approve the route which is less impactful as determined by their findings. Rocky Mountain Power requested that the planning commission and Washington County commission deem pre-construction and major activities as substantial work pursuant to Chapter 10-8-8 (*County Code*), which was done before the issuance of the Record of Decision (ROD) by the BLM. It was expected that BLM would issue their decision in September of this year and the construction would begin in October 2012.

The planning department received a letter from Mark Cox, Rocky Mountain Power representative, updating the progress of the Transmission Line. Originally, they expected the FEIS to be made public in August 2012; however, that has been pushed to October and the Record of Decision is anticipated to be out in December 2012. They are working on the right-of-way acquisitions and are approximately 90% complete. They will continue to update the County as things progress.

Commissioner Everett asked if staff felt one route might be better than the other. The planner answered the applicants have settled on the central route from the three initial routes they were looking at. That route was cut into 3 different portions and of those three there may be one that can only be accessed by helicopter. The FEIS will determine the location of the lines.

If Chairman Wilson clarified the project was mostly on BLM land and asked if there were any issues with the private land right-of-ways. Ms. Goheen answered there didn't appear to be.

Motion: Commissioner Everett MOVED to recommend the County Commission approve the Conditional Use Permit Extension for the installation of the 345kV Transmission project approving three alternative routes through Washington County to Red Butte No. 2; Rocky

Mountain Power, applicant for one (1) year. Commissioner Christopher SECONDED. Chairman Wilson called for discussion on the motion. There was none and the motion carried with all four (4) voting in favor.

This item will go to the County Commission on October 16, 2012.

III. CONDITIONAL USE PERMIT. Request permission for a “Sweetheart Half Marathon”, February 9, 2013, starting at Old Hwy. 91 on the west side of Utah Hill on the Beaver Dam Slope and running to Ivins; Jeremy Frehener, applicant.

The planner reported the applicant has submitted an application for a “Sweetheart 2013 Half Marathon Route”. This will start at Utah Hill and run to Ivins on Saturday, February 9, 2013. The applicant reported that Public Works has approved the plan of the race course. Mr. Whitehead will be happy to write a letter or come to the meeting as needed. Lt. Rob Tersigni also approved the use of the course. The road does not need to be closed and the Red Mountain Running Group and City of Ivins would employ two (2) sheriff deputy vehicles to pilot the runners along the Old Hwy. 91 to help move traffic as needed during the 3 hours of the run. If needed, the Shivwits Indian representative should grant approval for crossing the reservation. The County would want to be listed as a beneficiary on the liability insurance policy. Also, review communication and emergency access plans and information. She provided a copy of the route for the commission to review.

No one was in attendance to represent the item. The commission discussed tabling the item until the applicant could attend. The commission decided to table the item.

Motion: Commissioner Everett MOVED to table recommendation to the County Commission approve the Conditional Use Permit for a “Sweetheart Half Marathon”, February 9, 2013, starting at Old Hwy. 91 on the west side of Utah Hill on the Beaver Dam Slope and running to Ivins; Jeremy Frehener, applicant, until a representative could attend. Commissioner Christopher SECONDED. Chairman Wilson called for a discussion on the motion. There was none. The motion carried with all four (4) Commissioners voting in favor.

IV. CONDITIONAL USE PERMIT. Request permission to locate equipment and pipe storage in a staging area on the Bowler arena property in Veyo; Carl Bowler, owner/applicant.

The Planner reported the applicant would like to operate a staging area in the County located on the Bowler property in Veyo. The applicant will lease this site out periodically and would be using this area for his own equipment and projects. This area has been utilized for staging by contractors in the past. The applicant is going to be working on the Veyo Pipeline and would be using the property for storage related to that project. Sanitary facilities and those types of conditions, as required in the past, will still be required on site.

Commissioner Ford asked if this is the same parcel where the Nevada project was located. The planner replied that it was. However, the owner is applying for the permit for his own use and for leasing the property out in the future. This application is for his own use.

Commissioner Stucki asked why the contractor was not asking for the conditional use permit. The planner answered Mr. Bowler felt it would be better for him to apply as the property owner to store his own equipment. Also, he is thinking of leasing the property out in the future and this way the CUP is in place. He is taking the responsibility for the property and the conditional use permit for any future storage on the property.

A discussion on the leasing of the property took place. Commissioner Stucki stated concerns on leasing the property out in the future and creating a commercial use in an agricultural zone. Commissioner Everett stated his concern was that the applicant could lease the property to others where there is no accountability as to whom would be responsible in the event of problems; would it be the lessee or the lessor? The discussion

involved changing the property to commercial instead of agriculture and the responsible party in the event any problems occur. The attorney asked the commission if they want the conditional use permits to run with the land or with the permittee. After discussing the conditional use permit to run with the land or permittee, the attorney stated he would look into the permitting process and get back to the commission in a discussion on how they would like permits to be issued in the future.

Scott Holt, representing Carl Bowler, stated he appreciated being able to be heard. He reported the property would be used to store culinary pipe and equipment for the Veyo water line project and for Mr. Bowler's personal equipment.

After a lengthy discussion regarding the zoning, other uses on the property, future lessee's and other concerns, Chairman Wilson stated he was comfortable with this use and called for a motion. The commission discussed the findings of facts and conditions as follows:

- This particular property has been used for pipe storage in the past.
- Public utilities are allowed as a conditional use in the A-20 zone and this use for the Veyo Waterline project is similar and in harmony with the character and intent for the zone.

Todd Edwards addressed the commission and asked that some conditions be implemented into the approval. The conditions are sanitary facilities, dust control, and traffic control signage. The commission concurred.

Motion: Commissioner Stucki **MOVED** to recommend the County Commission approve the Conditional Use request to locate equipment and pipe storage in a staging area on the Bowler arena property in Veyo; Carl Bowler, owner/applicant for one (1) year based on the following:

Findings of Fact:

- This particular property has been used for pipe storage in the past.
- Public utilities are allowed as a conditional use in the A-20 zone and this use for the Veyo Waterline project is similar and in harmony with the character and intent for the zone.

Conditions:

- Sanitary facilities such as port-a-potties are located on site;
- Dust control measures will be taken that meets all State and County standards;
- Traffic control signage that trucks and machinery will be entering and exiting the area.

Commissioner Ford SECONDED. Chairman Wilson called for discussion on the motion. There was none and the motion carried with all four (4) voting in favor.

This item will go to the County Commission on October 16, 2012.

A discussion regarding updating the conditional use permits requirements occurred between the commission and staff.

V. PUBLIC HEARING. Open hearing for Washington County Zoning Ordinance amendments regarding Land Use Authority and procedures on appeals and Conditional Use Permits; County initiated.

The planner stated this will be postponed for additional changes and modification by the County Attorney.

Motion: Commissioner Ford **MOVED** to table the public hearing for the Washington County Zoning Ordinance amendments regarding Land Use Authority and Procedures on appeals and Conditional Use Permits; Commissioner Stucki **SECONDED**. Chairman Wilson called for discussion on the motion. There was none and the motion carried with all four (4) voting in favor.

VI. ORDINANCE AMENDMENT. Consider an amendment to Title 10, Chapters 2 and 18, regarding Land Use Authority and procedures on appeals and Conditional Use Permits; County initiated/Deputy Attorney Eric Clarke.

The Planner reported that in recent review of the ordinances appeal process there is some confusion, so staff is recommending a change to the Land Use Authority, which will make changes to the appeal process. Eric Clarke, Deputy County Attorney, will explain those recommended changes. The planning commission may want to recommend approval as is; or review and vote for modifications; or table this item for further review. Findings need to be made for this amendment, as this is for clarification of the codes. If approved, this will go before the County Commission as a recommendation on the 6th of November, allowing for a 10 day appeal period.

Motion: Commissioner Everett MOVED to table recommendation of approval from the County Commission amendments to Title 10, Chapters 2 and 18, regarding Land Use Authority and Procedures on appeals and Conditional Use Permits until the County Attorney submits a final draft. Commissioner Stucki SECONDED. Chairman Wilson called for discussion on the motion. There was none and the motion carried with all four (4) voting in favor.

VII. DISCUSSION ITEM. Review air quality issues with Christy Wedig/Citizens for Dixie and Bill Swensen/St. George Air Quality; County initiated.

The planner stated Christy Wedig attended a planning meeting several months ago speaking on air quality issues in behalf of Citizens for Dixie and offered to update the commission on St. George's Air Quality requirements. Ms. Wedig has invited Bill Swensen, with the City of St. George to share details about their procedures and efforts to maintain clean air.

Bill Swensen, City of St. George Air Quality Specialist stated Christy Wedig was in Salt Lake and was unable to attend. He reviewed St. George City's Ordinance and Regulations related to air quality initiated in 2007. He handed out some highlights of the ordinance indicating the ordinance is a 14 page document. He reviewed how St. George enforces violations of the air quality standards.

The commission had some questions for Mr. Swensen which he answered.

Chairman Wilson asked to be excused and turned the meeting over the Vice Chair Ford at 2:30 p.m.

VIII. DISCUSSION ITEM/ORDINANCES. Review a Zoning Ordinance amendment to remove kenneling definition and a Subdivision Ordinance change from a 10' to 15' easement requirement along front property lines and as needed; County initiated.

The planner stated staff has determined there are two areas of the code that needs to be changed for housekeeping and clarification. The first being the kenneling definition and any reference to kenneling in the zones, where as Title 5, Law Enforcement and Animal Control in Chapter 3 addresses issues and is the enforcement arm. If there is a need for animals to be rescued or a commercial use it can be reviewed conditionally. Second, several years ago the staff felt it would be good to have a utility easement requirement on the frontage of each lot, instead of all property lines and utility or drainage easements may be reviewed as needed. The suggestion for the 15' frontage easement will allow for enough space for lines to go around pedestals and hydrants in the easement. If agreed upon this will be advertised for public hearing on November 13, 2012.

A lengthy discussion on numbers of allowed dogs and cats along with amendments to the ordinance between the commission and staff occurred. The commission was concerned with removing numbers and felt there should be numbers in place somewhere in the ordinances to regulate how many cats or dog's people can have. They also agreed it would be better to turn the enforcement of animal issues over to animal control.

Todd Edwards advised the commission on the intent of the ordinance change related to the 15' frontage easement. Staff and the commission discussed the proposed change at length. The commission felt the easement should be left at 10' and that the utilities should be in before the home construction takes place. .

IX. STAFF DECISIONS. Review of decisions from the Land Use Authority Staff Meeting held on August 21 and September 04, 2012; County initiated.

The Planner reviewed the decisions of the Land Use Authority Staff Meeting held August 21, and September 04, 2012 as reported below:

ACTIONS OF THE LAND USE AUTHORITY STAFF MEETING
October 02, 2012

The staff meeting convened at 9:30 a.m. Staff Members Present: Deon Goheen, Planning & Zoning Administrator; Kurt Gardner, Building Official; Todd Edwards, County Engineer. Eric Clarke, Deputy Civil Attorney; Tina Esplin, Washington County Water Conservancy District; Darwin Hall, Ash Creek Special Service District; Becky Marchal, Questar Preconstruction Specialist; Director Paul Wright, Department of Environmental Quality; and Robert Beers, Southwest Utah Public Health Department.

Excused: Ron Whitehead, Public Works.

CONDITIONAL USE PERMIT EXTENSION:

A. Request permission for an accessory dwelling (garage/bath) within the Old Spanish Trail Homesteads, 2 amended, lot 6A, in the Veyo area. Steve & Kate MacFarlane, applicant.

This is a 4th extension review; previously approved as an accessory dwelling (full bath) within a garage structure, which is located at 194 S. 300 West (Volcano Dr), in Veyo, Utah. The applicant submitted a site plan and a floor plan will be reviewed by the building staff, with a file copy submitted for the planning file. The septic permit is approved for the main dwelling with 1 bedroom and is adequate to accommodate 3 more bedrooms. A framing inspection was made on July 31, 2012 for Permit #6101. This remodel of the garage is less than 900 square feet requirement for an accessory dwelling. **The extension on the Conditional Use Permit was approved for an additional one (1) period.**

B. Request permission for an accessory dwelling (garage) within the RE-40.0 zone at Canyon Trails - Phase 2, lot 15, in Dammeron Valley. Ted & Cami Parker, applicants.

This is the 3rd extension review. Previously the applicant had requested an accessory dwelling within a garage structure, which is located at 1424 N. Canyon Trails Dr., in Dammeron Valley. The applicant submitted a site plan and a floor plan will be reviewed by the building staff, with a file copy submitted for the planning file. The septic permit is approved for the main dwelling and is adequate for the 1 bedroom added in the accessory dwelling, which was obtained from the Southwest Utah Public Health Department. Incorrect information was given a previous meeting, whereas Permit #5516 was for the main dwelling and the accessory dwelling permit was shown on the same permit. This meets the criteria set forth for accessory dwelling units and the casita portion is less than 900 square feet. There has been no activity since February 2, 2010, so the building permit has expired and a letter will be sent to notify the applicant. **The staff decided to extend approval of the Conditional Use Permit for an additional one (1) year.**

C. Request permission to build an accessory dwelling (detached RV garage & casita) within the RA-1 zone, Cliffdwellers, Phase 2, Lot 40. Reid and Rose Russell, applicants.

This is the 5th extension and accessory dwellings are conditionally approved within the RA-1 zone, with this property being a legally platted and recorded lot. The applicant previously met the requirements for the accessory dwelling units, although, it appears that no building permit as been taken out as yet. The applicant previously submitted a site plan, and a letter from the Health Department stating that the existing system is sufficient for the proposed building or a new system may be obtained. The main

dwelling unit is occupied by the owner of the parcel and dwelling units will have a single utility connection. The property is accessed from 1100 West and 3390 South. The site plan meets all setback requirements and elevations meets the height requirements. The owner indicated several years ago that they had done some excavation and soil tests, but with the economy the way it is, does not allow for them to continue at present. Not having a borrow ditch has created a drainage problem and with that now designed, they may need to amend their site plan. **Once again, Staff indicated the initial work that went into applying for the conditional use should be enough to keep the use active, there should be no problem in granting an extension for the period of one year on this Conditional Use and will bring this back for review when a permit has been issued.**

PLANNING COMMISSION REFERRALS:

D. Review progress in establishing a private recreation area and facilities on 30.06 acres within the FR-5 (Forest Residential 5 acres) zone, generally located south of Pine Valley Townsite. Lester Wittwer Investment Co./Shayne Wittwer, applicant. Yearly Staff Review 10/12/11 as per planning commission.

[6191-C-1] Permit #6407 was issued on August 1, 2012 and the building official said he had inspected the footings this morning. Staff extended the Conditional Use Permit for another year based on recent activity.

E. Review extension to mine cinders and operate a crushing operation at a community materials pit on BLM (Bureau of Land Management) land located near the town of Veyo. Sunroc Corp, applicant.

[BLM Land] Staff Review yearly as per October 11, 2011 planning meeting. The planner stated mining and mineral developments are conditionally approved within the OSC-20 zone (County Code 10-6A-3). This is the 10th extension review, nine (9) were with the planning commission. There have been no complaints during the last year. Gene Beck, Sunroc Construction reported they are allowed to mine 15,000 ton of product each year and removed less than that. This coming year they will probably remove their full allotment. **The extension on the Conditional Use Permit was approved for an additional one (1) period.**

CONDITIONAL USE PERMIT:

A. Request permission for a 2nd dwelling for a family member (garage/bath) in the Blackridge Ranch Subdivision - Phase 2, lot 139, within the New Harmony area. Chuck Oldynski, applicant.

The applicant met the requirements for the Conditional Use Permit by submitting a site plan, existing septic would handle the additional bathroom in the garage, as per Robert Beers, with the Southwest Utah Public Health Department and the existing culinary water use is from the Mountain Springs Water Company. Second dwellings are conditionally approved within residential zones. The property is accessed from the Old Hwy 91 to 2800 East in Blackridge Ranches. The site plan meets all setback requirements of 25', 25', and 25" on all sides, rear and front. The Wildland Urban Interface for fire protection would need to be addressed during the permitting process at the staff level. Darwin Hall indicated that using the same septic would not need a review from his board on density. **Staff approved the Conditional Use Permit for one (1) year.**

X. MINUTES. Consider approval of the minutes of the regular Planning Commission meeting held September 11, 2012 and a special meeting held on September 14, 2011.

The commission reviewed the minutes.

Motion: Commissioner Stucki MOVED to approve the Minutes of September 11, and 14, 2012 with corrections. Commissioner Everett SECONDED. Chairman Wilson called for discussion on the motion. There was none and the motion carried with all four (4) Commissioners voting in favor.

XI. COUNTY COMMISSION ACTION REVIEW. Review of action taken by the County Commission on Planning Items; County initiated.

The planner reported on action taken on planning items by the Washington County Commission on September 18, 2012, that included the following: (a) Extension review on Motocross and ATV Track within the OST-20 zone, containing 200+ acres, generally located east of Hwy. 18 on North Baker Lake Rd. and 300 East in Central., Robert and Mary Houston, applicants and Gary Simonson, agent, (b) Extension for endurance mountain bike racing, "Frog Hollow Event", on Sheep Bridge Road, generally located between Virgin and Hwy. 59 east of Hurricane, October 13, 2012, 6 hour event and November 3rd & 4th, 2012, 24 hour event, a portion within the County unincorporated area; GRO-Promotions, LLC/Cimarron Chacon, applicant. (c) Extension on a sales office for the Kolob Land Development on the west side of the freeway at the Kolob Exit off Interstate 15; Kolob Development, Inc./Robert Anderson, applicant. (d) Extension to install a proposed 100' lattice tower within the OST-20 zone, on BLM land adjacent to the Rocky Mountain Power Substation south of Dammeron Valley; SBA Communication Corp., applicant. (e) Extension to install a proposed 100' lattice tower within the RA-1 zone, on 1 acre of land owned by Theresa Haury (Robert Tripp), in Veyo; Debbie Adams DePompei/Intellisites, applicant. (f) Extension to install an equipment building and solar panels within the OST-20 zone on Kolob Mountain; Beehive Telephone Co., applicant. (g) Extension to install a meter building, feederline and security chain link fence south of the Texaco Station at the New Harmony Interchange; Questar Gas, applicant. (h) Conditional Use Permit for an operation to extract gravel west of Veyo, Utah in Section 11, T40S, R17W, SLB&M; Carl Bowler, applicant. (i) Conditional Use Permit for an operation to extract gravel on State Lands east of Old Hwy. 91 at an established rock quarry site on Utah Hill; Allen Feller, applicant.

XII. COMMISSION & STAFF REPORTS. General reporting on various topics; County initiated.

Commissioner Everett read St. George City's Air Quality Ordinances that states both the owner and operator are responsible for complying with the Conditional Use Permit. He said that might be the way for the county to address the conditional use permit dilemma on responsibility. Thereby making both owner and operator responsible for any issues that might arise.

There were no other reports.

Motion was made by Commissioner Stucki to adjourn the meeting at 3:20 p.m.

Doreen Bowers-Irons
Planning Secretary

Approved: 13 November 2012